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KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
July 24, 2007**

Present: Commissioners Lythgoe, Notbohm and Weber; Harold Stepper and Mike Hoffman, County Planners; Matt Johnson, County Attorney; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Ernie Kenison, Ray Barnicoat, Dennis and JeNay Lay, Bruce Suenram, Ross Wilkins, Ron Pearson, Bob Sims, Dean Bjerke, Ray Sedley, Ken Kluth, Daryl Strambaugh, David and Andrea McKeever, Dave and Kathy Christensen

MINUTES

Commissioner Weber moved to approve the minutes of July 3. Commissioner Notbohm seconded. The motion carried.

REPORTS

Receipt of June cash report from Treasurer.

CALENDAR REVIEW

- 7/26 CTAC - Whitehall - 8:00
Zoning Commission - Montana City - 4:00
- 7/27 Meeting regarding crisis center - Helena - 1:00
- 7/30 Meeting with Montana City Fire Department - Montana City - noon

COMMISSION REPORTS

BUDGET MEETINGS

Commissioner Weber reported that the Commission spent most of the previous week meeting with Department Heads and Elected Officials to review departmental budgets. Taxable valuations will be to the county by August 6th.

MIKE WAITE

Commissioner Weber reported that the Commission met with Mike Waite of Denny Rehberg's office and asked for help on several issues, including an EPA violation. He will ask, under the

Freedom of Information Act, for any documentation that the Forest Service or Job Corps has.

ENGINEERING REVIEW

Commissioner Weber reported that he, Tara Mastel, DeeDe Craft and Judie Tilman of Headwaters met with engineering firms regarding a project south of town. The committee selected Stahly Engineering.

DEPARTMENT OF REVENUE

Commissioner Weber reported that the Commission met with Steve Huntington of the Department of Revenue to discuss concerns with the County's taxable value and the fact that new and re-sold property might not be getting assessed in a timely manner. They will be meeting again in thirty days. Steve estimated that the County's taxable value would be up this year.

ELECTED OFFICIAL/DEPARTMENT HEAD CONCERNS

Commissioner Weber called Harold Stepper, County Planner, and presented him with a plaque from Jefferson County expressing appreciation for his work on SB339. Harold stated that on behalf of the County, he was glad to be able to work on this, as it was very important to the county.

SUBDIVISION REVIEW

FINAL PLAT APPROVAL - MEADOWLARK RIDGE MAJOR SUBDIVISION AND DISCUSS AND DECIDE ON SUBDIVISION IMPROVEMENT AGREEMENT

Mike Hoffman, County Planner, stated that he has his staff report, but he has not seen the plat or the improvement agreement, so he has not reviewed them. Dennis Lay, the developer, stated that he understood that he was to bring those documents to this meeting. He stated that he has a signed, notarized agreement, an engineer's statement, a letter of credit and a check. Commissioner Weber asked Mike if had time to meet with Dennis for a few minutes to review. Both agreed that this would be fine.

Mike and Dennis returned to the meeting and Mike presented his staff report. Mike stated that this is a major subdivision west of Jefferson City. The parcel contains 107.58 acres, which is proposed to be split into 47 lots, ranging in size from 1.75 to 3.11 acres. Lots will have individual wells and septic systems, and 5.42 acres of parkland have been dedicated. Water supply for fire suppression has been provided for, covenants and homeowner's by-laws have been completed, rural addresses have been obtained and the weed plan has been approved. The bond will cover those conditions of approval yet to be finished, 2, 8, 14 and part of 17, which deal with roads, a subdivision sign and fire protection. Mike recommended that final plat approval be granted with the addendum of the subdivision improvement agreement and stating that the construction and installation of roads to County standards be completed by July 24, 2008. The irrevokable letter of credit will be held until the improvements are made.

Commissioner Notbohm asked when final plat would have been due, if the developer followed the

normal process. Mike stated that preliminary plat approval was granted December 19, 2006. If granted final plat approval today, the developer will have one year from today to complete the improvements or forfeit the letter of credit. Commissioner Notbohm asked if lots could be sold in the meanwhile and building started. Mike stated that this is correct. He noted that Joe Carter, Road Supervisor, was on-site earlier in the day, and some road work has started. Commissioner Lythgoe suggested that in the subdivision improvement agreement, two dates be used, rather than one. Commissioner Weber agreed, noting that the letter of credit has the same expiration date as the final date for improvement completion. If the subdivision improvement agreement is breached, and the letter of credit expires on the end date, there would be no way to collect. Commissioner Lythgoe agreed that they can't expire on the same day; either the completion date needs to be moved back or the letter of credit date needs to be moved forward. Dennis stated that he would be glad to move the completion date to July 1st. Commissioner Lythgoe stated that he would prefer it to be a little sooner than that. Dennis stated that he would like to do the chip seal this year, but after talking to Joe, it would be better to wait until next year to do the chip seal, as the utility trenches will settle. Weather can affect the chip seal, and if we have another wet June, he is afraid that he won't meet an earlier deadline. Commissioner Lythgoe stated that the conditions of the letter of credit would give the County less than a month to complete the work. It would make more sense that if the timeline is tight, that the letter of credit be changed. Dennis stated that he would need to talk to the bank, but he feels that they would probably do this.

Commissioner Notbohm asked Dennis who gave him the figures of the road costs. Dennis stated that they came from his contractor. Commissioner Notbohm asked if they are guaranteed. Dennis answered that he can't speak for his contractor, but the figures that he gave were for the completion of the project. Commissioner Lythgoe asked if the figures are guaranteed by an engineer. Dennis stated that it was an independent engineer that verified the figures.

Commissioner Notbohm asked about fire protection. Dennis stated that he has expended over \$30,000 for material for the pumping station. As he speaks, Bullock Construction is on-site excavating the site, and station is to be delivered the next day. A vegetation and management plan for the subdivision has been drawn up and approved by Bruce Suenram and Zion Madison of the Jefferson City Fire Department. Each lot purchaser will be given a copy of the plan. Dennis also presented a letter from Montana Tunnels stating that, if needed, the fire department has a right to use water from Spring Creek until the hydrants are installed and functional. Commissioner Weber asked if each piece of information has been presented to meet the primary alternative. Dennis stated that both the 310 and 404 permits are in hand.

Commissioner Lythgoe requested that Dennis give his bank a call. It is okay with him, but maybe not the other Commissioners, that the bank change the date and fax it back. He would request that the date be changed to September 1. Dennis went to make the call.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

DISCUSS AND DECIDE ON ROAD DEPARTMENT MOWING FAIRGROUNDS

Commissioner Notbohm stated that this has been an on-going problem. It only takes three to four hours per year to cut at the fairgrounds. He said that this has already been taken care of this year. Commissioner Notbohm noted that there are certain times that the road department works on other projects, and feels that it is appropriate that they do this one little thing for the fairgrounds. He would like this to continue in the future. Joe stated that the crew can usually find the time to do this if they are not in the middle of a big project. It doesn't take a significant amount of time to do the mowing. Commissioner Weber asked Joe the amount of time it usually takes to do the mowing. Joe stated that all said, it pretty much takes a day, but they usually get other mowing done in the area at the same time. Commissioner Notbohm stated that the Fair Board always makes the request far in advance, so that the road department can fit this in when possible. Commissioner Notbohm moved to continue to do what has been done in the past and that the Road Department continue to mow the fair grounds and airport. Commissioner Weber seconded. The motion carried.

DISCUSS AND DECIDE ON DEVELOPMENT OF GUIDELINES FOR FIRE MITIGATION

Commissioner Weber stated that through conversations with Rick Abraham, he understands that the fire chiefs throughout the county will be getting together to discuss this. Rick Abraham stated that the next fire council meeting is scheduled for August 9th, and all of the fire chiefs have an outline to review. Commissioner Lythgoe asked if the Sheriff's office has the outline too. Rick stated that they wanted to have the fire council to look at it first, and then be able to present a united front. Commissioner Weber stated that he has spoken with Great West, and they will be looking at the subdivision regulations, which will take some time. Commissioner Lythgoe stated that he doesn't think that they need to make a decision at this time; they have agreed to move forward. Rick stated that his goal is not to extend this beyond 60 days; he would like to get everyone on board and get the guidelines adopted.

Commissioner Weber moved to continue to look at the guidelines for fire mitigation in the county, and also to look at the subdivision regulations. Commissioner Lythgoe seconded. The motion carried.

DISCUSS DEVELOPER'S POSSIBLE PARTICIPATION WITH COUNTY AND FIRE DEPARTMENT IN RESOLUTION OF FIRE MITIGATION IN THE VICINITY OF RIDGEVIEW ESTATES / DISCUSS AND DECIDE ON WATER STORAGE FOR MONTANA CITY FIRE DEPARTMENT AT RIDGEVIEW ESTATES SUBDIVISION OR AN ALTERNATE SITE / DISCUSS POSSIBLE LITIGATION AND/OR RESOLUTION BETWEEN MONTANA CITY VOLUNTEER FIRE DEPARTMENT AND JEFFERSON COUNTY

Commissioner Weber introduced the next three topics and gave a brief background. He stated that the Commission gave final plat approval to a subdivision with a variance to the fire mitigation measures, and the Montana City Volunteer Fire Department feels that the Commission did not act

appropriately and may sue. The Commission met with members of the fire department, and he has talked with the fire department, the developer and a property owner within the subdivision, and feels that they may have come to an understanding.

Matt Johnson, County Attorney, presented a draft MOU and stated that it is hot off the press, as he had been working on it that morning. He has been working with the developer and the owner of lot 13, and they may get an easement for water storage. There are still items in the draft document that will need to be discussed and decided upon. The intent of this draft is to provide a starting point for discussion. Commissioner Lythgoe stated that he thinks it is appropriate for the document to be read, which he read as follows:

A Memorandum of Understanding Between

Jefferson County, Montana

And

Montana City Rural Fire Department

And

Dave and Kathy Christensen

And

Dave and Andrea McKeever

THIS MEMORANDUM OF UNDERSTANDING between the four above named parties is to place in writing an agreement that is intended to resolve outstanding issues related to fire protection and water storage in relation to the Ridge View Estates subdivision located within the Montana City Rural Fire District and within Jefferson County.

1. RECITALS:

WHEREAS the Jefferson County Commissioners, on June 5, 2007, approved the Final Plat of Ridge View Estates Subdivision. The Final Plat included a variance that affected the preliminary plat conditions of approval, more specifically a condition related to fire protection and mitigation as a result of the subdivision.

WHEREAS the Jefferson County Commission acknowledges a potential legal issue related to public notice concerning a variance permitted for Ridge View Estates Subdivision.

WHEREAS parties to this document wish to reach an agreement to resolve issues of fire protection and water storage.

2. PURPOSE OF MEMORANDUM OF UNDERSTANDING: This understanding is made and entered into by the Jefferson County Commission, Montana City Rural Fire Department, Dave and Kathy Christensen, and Dave and Andrea McKeever to record the details of this agreement prior to written easements and logistics of said plans being accomplished.

3. SCOPE OF UNDERSTANDING:

A. Jefferson County shall be responsible for providing 30,000 gallons of fire fighting water supply for the Ridge View Subdivision. Said water supply and hydrant shall be for the unrestricted use of all fire protection agencies. Jefferson County shall design the system with the assistance of its County engineer and the system shall be tested for approval by the Montana City Fire Rural Department.

B. _____, shall be responsible for ensuring that the water supply and its fire safety features are properly working.

C. The Montana City Rural Fire Department shall provide storage tanks and the hydrant necessary for water storage as well as distribution of water to fire protection apparatus.

D. In the event that said storage tanks fail, the Montana City Rural Fire Department shall be responsible for replacement of said storage tanks and or hydrant through its water storage funds.

E. Dave and Kathy Christensen shall provide an easement to Jefferson County for placement and use of a well upon Lot ____ Of the Ridge View Estates Subdivision that is adjacent to Lot 13 of the Ridge View Estates Subdivision. Said easement shall also provide for access and use of power on said site for the water pump. Jefferson County shall be responsible for the drilling and placement of a well and water line to the water storage supply. Upon the sale of said Lot, the Christensens shall reimburse Jefferson County for the costs of the drilling and casing of the well.

F. _____, shall be responsible for supplying power of the well feeding the water storage supply until Lot ____ of the Ridge View Estates Subdivision is sold. After the sale of said lot, the new lot owner shall be responsible for maintaining a power supply to the water storage supply.

G. Dave and Andrea McKeever shall provide an easement to Jefferson County and all fire protection agencies for placement and maintenance of water storage tanks, water line to hydrant and water line from the well into Lot 13 of Ridge View Estates Subdivision. Jefferson County shall be responsible for placement of these items, burying the tanks and lines, re-seeding the land, and weed mitigation from soil disturbance in placement of said water storage facilities. Dave and Andrea McKeever shall not bear any responsibility for maintenance of the water storage facilities.

H. Jefferson County shall be permitted to use all funds provided by Dave and Kathy Christensen for the purpose of fire mitigation that have been paid to the Montana City Rural Fire Department for water storage supply installment and engineering.

4. MODIFICATION: This understanding may not be enlarged, modified or altered except upon subsequent written agreement signed by the parties hereto.

5. DURATION: This understanding is effective upon execution by all parties.

Dated this _____ day of _____, 2007.

Commissioner Weber stated that everyone has been great about working together for a conclusion. He did have a couple of questions however. Item "A" seems to indicate that the water supply is for this subdivision only; the water supply needs to be made available for everyone. Item "F" needs to specify that there will be no cut in the power supply without notice to the County and/or fire department.

Rick stated that he knows that the County was put under the gun and this was done very last minute; a lot of discussion is needed, and he doesn't want to take up an entire meeting to discuss this. He suggested that this be put back on the agenda in two weeks. He feels that this is a very workable document, and he would like to get together with the developer, lot owner and a Commission representative to hammer things out. Dave Christensen stated that this sounds good to him, and the McKeevers also indicated that they would be agreeable to this.

Dave Bjerke stated that for anyone to have to go to this expense for 13 lots seems excessive. He asked about the availability for a central location for the area, noting that this seems to make more sense. Commissioner Weber stated that a lot of things are on the table, and that discussion is taking place. Commissioner Lythgoe stated that one reason the fire department is having this discussion is that they would like to see changes made county-wide.

Bob Sims stated that it seems like this should have been taken care of before approval was given, and asked how to make sure this doesn't happen again. Commissioner Weber stated that this is why they are having the discussion. Bob stated that he objects to non-fire-fighting people making decisions and overriding fire-fighters recommendations. Commissioner Lythgoe stated that every once in a while they are blind-sided; this is an on-going process. It was agreed that Commissioner Lythgoe would act as the Commission liaison.

OPPORTUNITY FOR PUBLIC COMMENT

Bruce Suenram expressed his concern with the letter from Montana Tunnels which implies that the primary way to get water to the Meadowlark Ridge subdivision is a dry hydrant, when it is in fact a wet hydrant. His other concern is that the Jefferson City Volunteer Fire Department wants the ability to test and inspect the system. Commissioner Lythgoe asked if this is mis-worded. Bruce stated that both are available.

The meeting recessed until 3:45, as Dennis Lay was required to drive to Helena to get a new letter of credit.

MEADOWLARK RIDGE

Commissioner Weber called the meeting back to order. Dennis Lay presented a new letter of credit expiring September 1, 2008, and the subdivision improvement agreement, dated July 24, 2008. Commissioner Weber asked if all of the work will be done by the same contractor. Dennis stated that Bullock is doing the excavation for the water system, and Lowry is doing the plumbing. Commissioner Weber mentioned the concern Bruce Suenram had with the letter from Tunnels, and asked if the wet or dry hydrant would be primary. Dennis stated that pumping will be primary, and secondary if the power is out. Commissioner Weber stated that Bruce also expressed concern that the fire chief test the system. Dennis stated they everything will be done to their satisfaction.

Commissioner Notbohm stated that the problem he has with the request is that once they do this, it will open the floodgates. He feels that all of the conditions of approval should be completed before they are given final plat approval. Dennis noted that this is a very common practice throughout the state. Commissioner Lythgoe stated that he is not sure if it is common to bond something when there is still half a year to complete the project, but he doesn't think it inappropriate to come forward and request this at this time. He doesn't necessarily believe that it sets precedent.

Commissioner Weber asked what mitigating reasons the developer has to come forward at this time. Dennis stated that he has sunk heart, soul, life and livelihood into the project; this request is monetarily motivated. He is trying to sell some lots and get builders in before the weather changes. He noted that he does have some buy/sell agreements in place.

Commissioner Notbohm noted that there is also the issue of a piece of road leading to the development that the developer has requested the county chip seal. He stated that he is opposed to spending taxpayer money to improve the road. Dennis stated that if the county doesn't want to, that is fine. Commissioner Lythgoe stated that he hopes that Dennis will consider doing this, but the County can't require it. Dennis stated that he is willing to discuss a cost-share.

Commissioner Lythgoe moved to give final plat approval to the Meadowlark Ridge subdivision, and also give approval to the subdivision improvement agreement. Commissioner Weber seconded. Commissioner Notbohm stated that this is not personal, but he will be discussing the normalcy of this with the County Attorney. The motion carried with Commissioner Lythgoe and Weber voting aye and Commissioner Notbohm voting nay.

FURTHER PUBLIC COMMENT

Jan Anderson stated that her husband wanted her to make the Commissioners aware that handicap accessibility could be an issue with the proposed land swap between the County and Wagner Insurance that was discussed at the previous meeting. She noted that the old Dairy Queen building is for sale, and asked if they have given that building any consideration. Commissioner Weber stated that it hadn't been brought forward until now.

Commissioner Lythgoe moved to adjourn. Commissioner Weber seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER